

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 8:08CR-338
vs.)
ROBERT Z. BOYLES,)
Defendant.) ORDER

This matter is before the court on the defendant's amended Motion for Determination of Mental Competency pursuant to 18 U.S.C. § 4241 (#28). On October 21, 2008 the court ordered (#30) that the defendant, Robert Z. Boyles may not be presently competent to stand trial and that he should be examined by Dr. Terry Davis and a report be submitted to this court.

On December 1, 2008, the court received a forensic report from Dr. Davis.

On December 16, 2008 a hearing was held before the undersigned magistrate. The defendant was present and represented by counsel, David F. Eaton. The United States was represented by John E. Higgins, Assistant United States Attorney. The November 23, 2008 forensic report of Dr. Davis was received into evidence without objection. Defendant's counsel represented on the record that the defendant no longer questioned his mental competency. No additional evidence was adduced.

I find by a preponderance of the evidence that the defendant is not presently suffering from a mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist

properly in his defense pursuant to 18 U.S.C. § 4241. Accordingly, I find that this case should be set for trial.

IT IS ORDERED:

1. Defendant's amended Motion for Determination of Mental Competency (#28) is denied.
2. The defendant is not suffering from any mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241.
3. This case should be progressed by separate order.

Dated this 16th day of December 2008.

BY THE COURT:

S/ F. A. Gossett
United States Magistrate Judge